

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

MS1 - 0407US

First Named Inventor: Scott A. Field

Art Unit: 2131

Application Number: 09/489,192

Examiner: Kaveh Abrishamkar

Filed: 1/20/2000

Title: Methods and Systems for Protecting Information in Paging Operating Systems

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity - fee \$ 500.00 (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of
Petition _____ (identify the type of reply):

- ☐ has been filed previously on _____
- ☒ is enclosed herewith.

B The issue fee of \$ 1400.00

- ☒ has been filed previously on 9/15/2005
- ☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

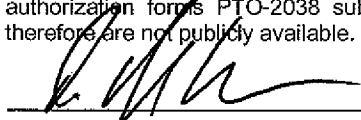
3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

5-22-06

Date

Rich Bucher

Typed or printed name

57971

Registration Number, if applicable

421 West Riverside Avenue, Suite 500,
Spokane, WA 99201

Address

Address

(509) 324-9256

Telephone Number

- Enclosure ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

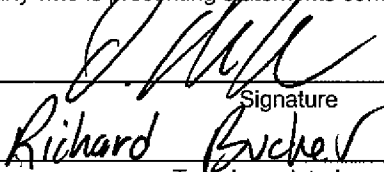
Date

Signature

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

 _____ Signature Richard Bucher _____ Typed or printed name	5-18-06 _____ Date 57,971 _____ Registration Number, if applicable
-------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Applicant respectfully submits that it acted in a reasonably prudent fashion by timely filing the drawing corrections, contacting the PTO on 9/15/2005 with regard to the acceptance of the replacement drawing, and verifying that same day – through the PTO's own electronic patent application retrieval service (PAIR) – that the appropriate corrections had been made by the PTO. Additionally, Applicant submits that it acted in a reasonably prudent fashion by corresponding with Miss Lewis of the Publication Department of the PTO and following her instructions diligently.

Especially pertinent here is an excerpt from *In re Mattullath*, cited above and reproduced at 711.03(c) of the MPEP itself, which provides guidance with respect to unavoidable delay (emphasis added):

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

As the above guidance clearly indicates, Applicant's reliance here on the PTO's employees ("worthy and reliable employees") and PAIR ("other means and instrumentality usually employed in such important business") exhibits at-least as much care and diligence as observed "by prudent and careful men in relation their most important business". Here, "unexpectedly" and through the "unforeseen fault or imperfection of these agencies and instrumentalities", there occurred a failure which caused Applicant to be unavoidably delayed.

Accordingly, pursuant to 37 CFR §1.137(a) and MPEP §711.03, Applicant respectfully requests that the PTO (1) revive the subject application based on unavoidable delay and (2) forward the application on to issuance.

***Please see additional attached sheets (with statements and exhibits) ***

(Please attach additional sheets if additional space is needed.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.09/489,192
Filing Date January 20, 2000
Confirmation No.....5535
Inventorship..... Scott A. Field
Applicant Microsoft Corporation
Group Art Unit2131
Examiner ABRISHAMKAR, KAVEH
Attorney's Docket No. MS1-407US
Title: Methods and Systems for Protecting Information in Paging Operating
Systems

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR § 1.137(a)

To: Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

From: Rich Bucher (Tel. 509-324-9256; Fax 509-323-8979)
Lee & Hayes, PLLC
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

1 This petition is filed under 37 CFR §1.137(a) entitled "Revival of
2 Abandoned Application - Unavoidable". This petition is pursuant to a decision
3 mailed by the Director's Office (Office of Public Publication) on 5/1/2006. The
4 decision dismissed Applicant's petition filed under 37 CFR §1.181 entitled
5 "Petition to the Director". The decision additionally stated: "Petitioner should
6 seek relief by the filing of a Petition to Revive an Abandoned Application under
7 37 CFR § 1.137."

8 Accordingly, these additional sheets, which accompany completed form
9 PTO/SB/61, contain statements and exhibits establishing that any delay was
10 unavoidable. Applicant respectfully submits that the level of care and diligence
11 undertaken by Applicant was *at-least* that of a reasonably prudent person.
12 Therefore, since decisions regarding petitions for the revival of abandoned
13 applications (unavoidable delay) are based upon a **reasonably prudent person**
14 **standard**, Applicant respectfully requests that the PTO (1) revive the subject
15 application based on unavoidable delay and (2) forward the application on to
16 issuance. (*In re Mattullath*, 38 App. D.C. 497, 514-15 (1912) (quoting *Pratt*, 1887
17 Dec. Comm'r Pat. 31, 3233 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550,
18 552, 138 USPQ 666, 667-68 (D.D.C. 1963), *aff 'd*, 143 USPQ 172 (D.C. Cir.
19 1963); *Ex parte Hen-rich*, 1913 Dec. Comm'r Pat. 139, 141 (1913); MPEP
20 711.03(c)).

21 In a review of the status of this application on 04/18/2006, Applicant
22 became aware that the status was listed as "Abandonment for Failure to Correct
23 Drawings/Oath/NonPub Request." A review of the "Transaction History" of this
24 application on PAIR on 04/19/2006 shows the following entry: **"09-15-2005**
25 **Correction – Drawing NOT Required."**

1 Applicant did indeed timely file the drawing corrections and respectfully
2 submits that this application should not have been abandoned. Furthermore,
3 Applicant submits that it acted in a reasonably prudent fashion and that any delay
4 was unavoidable. Herewith, in accordance with §1.137(a), the following
5 statements and exhibits establishing unavoidable delay are submitted:

- 6
7 1. Applicant prepared and timely filed Replacement Drawing Sheet 2
8 in response to the Office Action Dated 11/28/2003. The
9 Replacement Drawing Sheet 2 was filed on 03/24/2004 and is
10 included as **Exhibit A**. Replacement Drawing Sheet 2 was printed
11 from PAIR and indicates receipt by the Patent Office.
- 12
13 2. This Response was filed by Express Mail using the procedures set
14 out by the PTO. Accordingly, a Transmittal Form and Certificate of
15 Express Mailing was completed on 03/24/2004 by Cheryl Boies and
16 Express mailed, along with the Response, to the PTO. The return
17 receipt postcard is attached as **Exhibit B**.
- 18
19 3. Applicant's representative contacted the PTO on 9/15/2005 with
20 regard to the acceptance of Replacement Drawing Sheet 2 which
21 was filed on 3/24/2004. The PTO corrected their records and made
22 an entry in the "Transaction History" of this application on PAIR
23 which indicates "**09-15-2005 Correction – Drawing NOT
24 Required.**" This printout from PAIR is attached as **Exhibit C**.
- 25
26 4. The Issue Fee was paid on 09-15-2005.
- 27
28 5. On 04/18/2006 a review of the status of this application was
29 performed (see printout attached as **Exhibit D**). On 04/19/2006, a
30 call was made to the Publication Department of the PTO with regard
31 to the abandonment status of this application. Pertinent documents
32 pertaining to the replacement drawings were faxed to Miss Lewis.
33 In a subsequent phone call from Miss Lewis, we were instructed to
34 prepare a Petition to be submitted to the PTO to have the
35 abandonment withdrawn.

1 Applicant respectfully submits that it acted in a reasonably prudent fashion
2 by timely filing the drawing corrections, contacting the PTO on 9/15/2005 with
3 regard to the acceptance of the replacement drawing, and verifying that same day
4 – through the *PTO's own* electronic patent application retrieval service (PAIR) –
5 that the appropriate corrections had been made *by the PTO*. Additionally,
6 Applicant submits that it acted in a reasonably prudent fashion by corresponding
7 with Miss Lewis of the Publication Department of the PTO and following her
8 instructions diligently.

9 Especially pertinent here is an excerpt from *In re Mattullath*, cited above
10 and reproduced at 711.03(c) of the MPEP itself, which provides guidance with
11 respect to unavoidable delay (emphasis added):

12
13 The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and
14 requires no more or greater care or diligence than is generally used and
15 observed by **prudent and careful men** in relation to their most
16 important business. **It permits them in the exercise of this care to rely**
17 **upon** the ordinary and trustworthy agencies of mail and telegraph,
18 **worthy and reliable employees, and such other means and**
19 **instrumentalities as are usually employed in such important**
20 **business**. If unexpectedly, or through the **unforeseen fault or**
21 **imperfection of these agencies and instrumentalities**, there occurs a
22 failure, it may properly be said to be **unavoidable**, all other conditions of
23 promptness in its rectification being present.

24 As the above guidance clearly indicates, Applicant’s reliance here on the
25 PTO’s employees (“worthy and reliable employees”) and PAIR (“other means
and instrumentality usually employed in such important business”) exhibits *at-*
least as much care and diligence as observed “by prudent and careful men in
relation their most important business”. Here, “unexpectedly” and through the

1 “unforeseen fault or imperfection of these agencies and instrumentalities”, there
2 occurred a failure which caused Applicant to be unavoidably delayed.

3 Accordingly, pursuant to 37 CFR §1.137(a) and MPEP §711.03, Applicant
4 respectfully requests that the PTO (1) revive the subject application based on
5 unavoidable delay and (2) forward the application on to issuance.

8 Respectfully Submitted,

9
10 Dated: 5-18-06

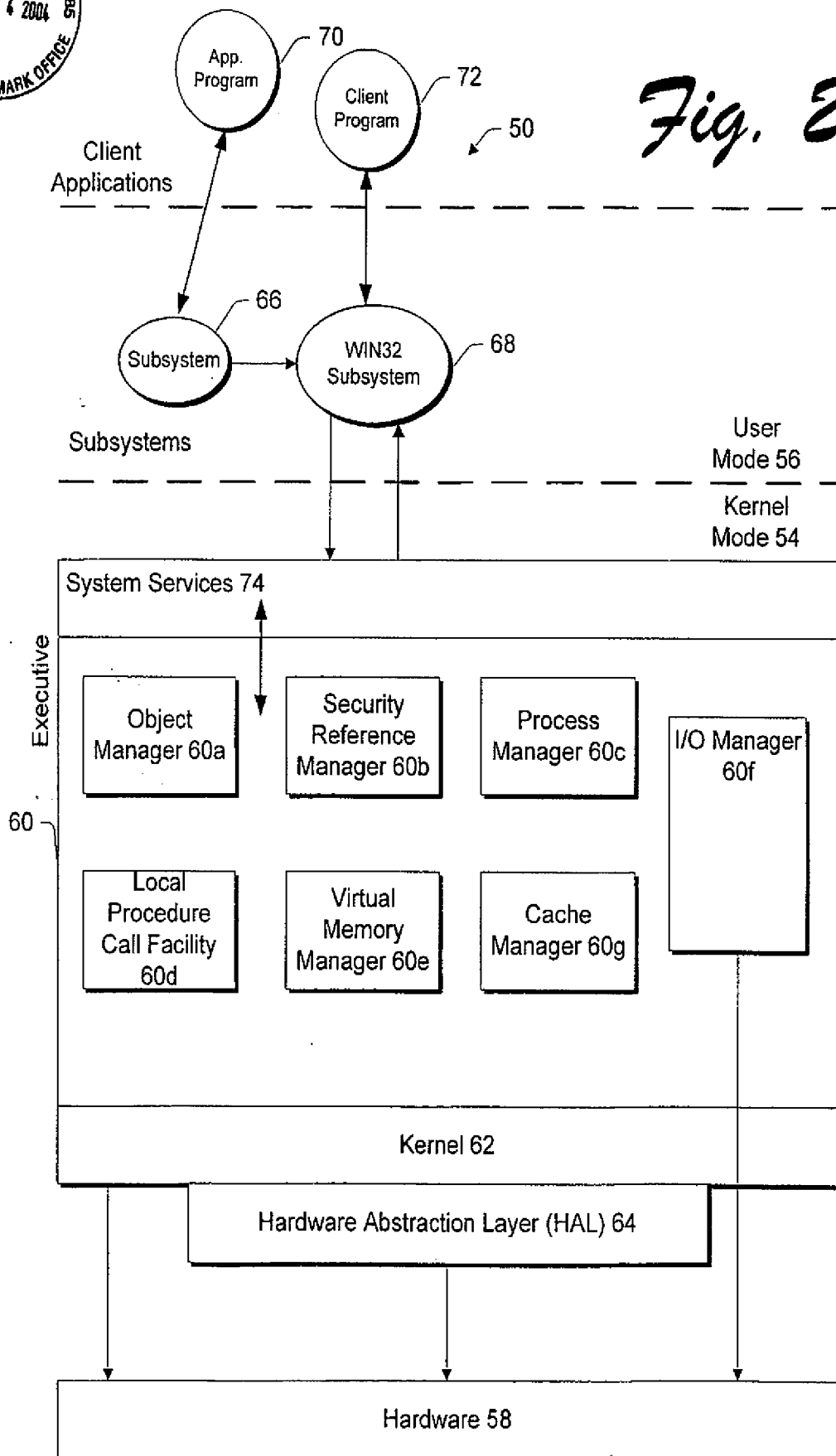
By: 

Rich Bucher
Reg. No. 57,971
(509) 324-9256



EXHIBIT A

Fig. 2





MS1-407US

EXHIBIT A

Fig. 2

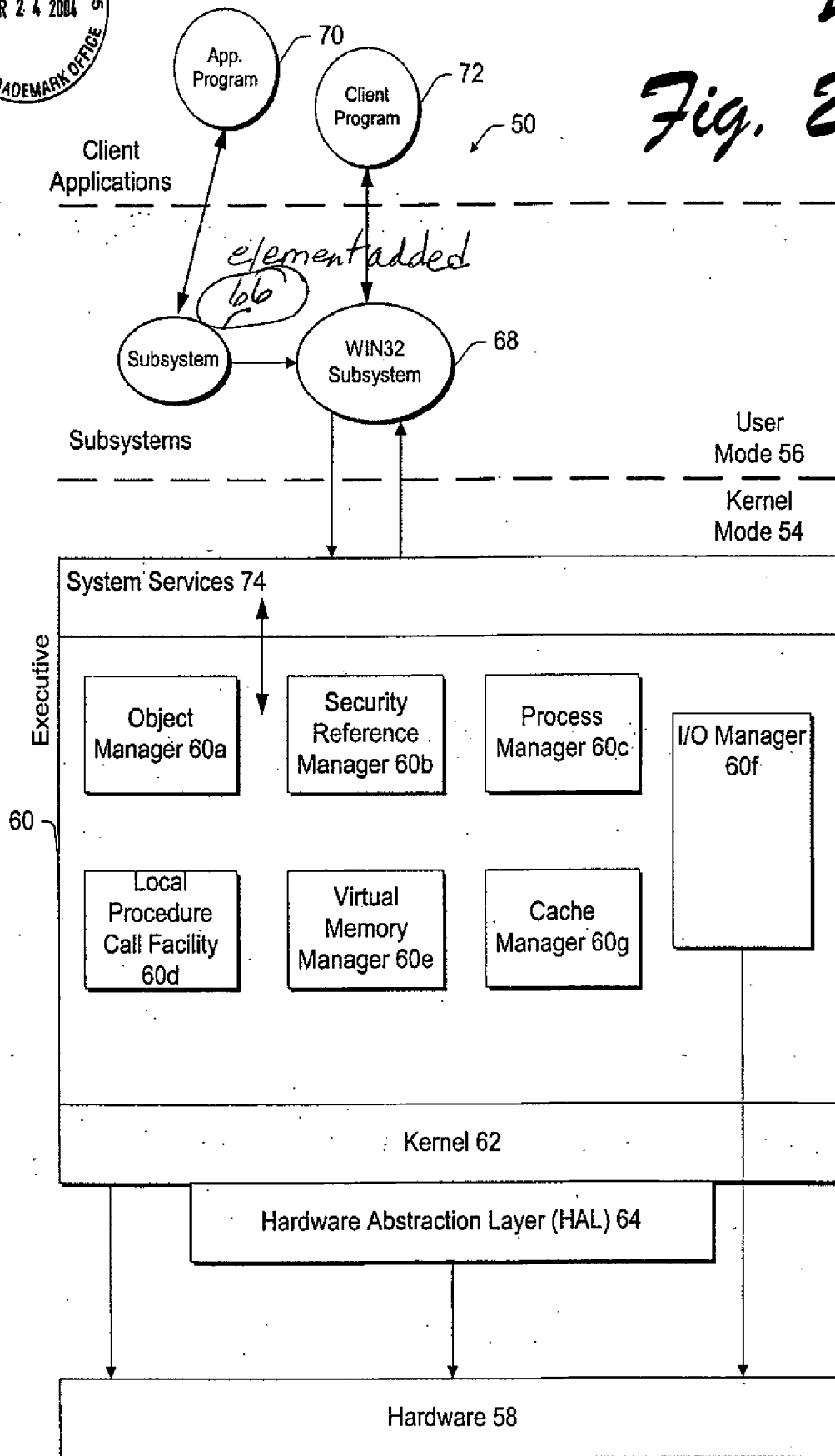


EXHIBIT B

EV369764006

MS1-407US

Microsoft Corporation

3/24/04

The stamp of the U.S. Patent and Trademark Office acknowledges receipt of the documents enumerated below, relating to the following application for letters patent:

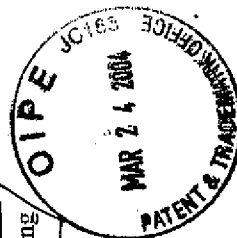
Serial No.: 09/489,192

Filing Date: Jan 20, 2000

Title: "Methods and Systems for Protecting Information in Paging Operating Systems"

Inventorship: Field

1. Transmittal letter
2. Fee Transmittal
3. Petition for Extension of Time
4. Response to Office Action Dated 11/28/2003 (27 pages)
5. 1 sheet replacement drawing (Fig. 2); 1 sheet annotated drawing
6. Return Post Card



LEE & HAYES, PLLC
(509) 324-9256



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09/489,192

METHODS AND SYSTEMS FOR PROTECTING SYSTEMS

Select New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Extension History
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Transaction History

Date	Transaction Description
04-17-2006	Mail Abandonment for Failure to Correct Drawings
04-17-2006	Abandonment for Failure to Correct Drawings/Oat
02-07-2006	Receipt into Pubs
01-04-2006	Dispatch to FDC
01-04-2006	Application Is Considered Ready for Issue
09-15-2005	Correction - Drawing NOT Required
09-15-2005	Issue Fee Payment Verified
09-15-2005	Issue Fee Payment Received
09-13-2005	Receipt into Pubs
09-07-2005	Mail Notice of Allowance
09-07-2005	Mail Formal Drawings Required
08-25-2005	Formal Drawings Required
08-25-2005	Notice of Allowance Data Verification Completed
08-25-2005	Case Docketed to Examiner in GAU
07-30-2005	Date Forwarded to Examiner
07-22-2005	Amendment after Final Rejection
06-13-2005	Mail Final Rejection (PTOL - 326)
06-08-2005	Final Rejection
04-09-2005	Date Forwarded to Examiner
03-29-2005	Response after Non-Final Action
01-05-2005	Mail Non-Final Rejection
12-30-2004	Non-Final Rejection
11-20-2004	Date Forwarded to Examiner
11-20-2004	Date Forwarded to Examiner
11-15-2004	Request for Continued Examination (RCE)
11-20-2004	DISPOSAL FOR A RCE/CPA/129 (express abandonor
11-15-2004	Request for Extension of Time - Granted
11-15-2004	Workflow incoming amendment IFW
11-15-2004	Workflow - Request for RCE - Begin
10-13-2004	Mail Advisory Action (PTOL - 303)
10-08-2004	Advisory Action (PTOL-303)
09-23-2004	IFW TSS Processing by Tech Center Complete

09-23-2004	Date Forwarded to Examiner
08-18-2004	Amendment after Final Rejection
03-07-2000	Oath or Declaration Filed (Including Supplementa
03-24-2004	New or Additional Drawing Filed
08-18-2004	Workflow incoming amendment IFW
06-18-2004	Mail Final Rejection (PTOL - 326)
06-14-2004	Final Rejection
06-10-2004	Case Docketed to Examiner in GAU
04-06-2004	Date Forwarded to Examiner
03-24-2004	Response after Non-Final Action
03-24-2004	Request for Extension of Time - Granted
11-28-2003	Mail Non-Final Rejection
11-25-2003	Non-Final Rejection
10-29-2003	Case Docketed to Examiner in GAU
08-12-2003	Case Docketed to Examiner in GAU
11-06-2001	Case Docketed to Examiner in GAU
10-06-2000	Case Docketed to Examiner in GAU
07-14-2001	Case Docketed to Examiner in GAU
10-06-2000	Case Docketed to Examiner in GAU
03-07-2000	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Receiv
03-02-2000	Case Docketed to Examiner in GAU
02-16-2000	IFW Scan & PACR Auto Security Review
02-17-2000	Preexamination Location Change
01-28-2000	Initial Exam Team nn

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Bibliographic Data

Application Number:	09/489,192	Customer Number:	22801
Filing or 371 (c) Date:	01-20-2000	Status:	Abandonment for Failure to Correct Drawings/Oath/NonPub Request
Application Type:	Utility	Status Date:	04-17-2006
Examiner Name:	ABRISHAMKAR, KAVEH	Location:	ELECTRONIC
Group Art Unit:	2131	Location Date:	-
Confirmation Number:	5535	Earliest Publication No:	-
Attorney Docket Number:	MSI-407US	Earliest Publication Date:	-
Class / Subclass:	713/165	Patent Number:	-
First Named Inventor:	Scott A. Field , Redmond, WA (US)	Issue Date of Patent:	-

Title of Invention:	METHODS AND SYSTEMS FOR PROTECTING INFORMATION IN PAGING OPERATING SYSTEMS
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EXHIBIT D